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DEPARTMENT OF STATE

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DIVISION OF PROFESSIONAL REGULATION

PUBLIC MEETING NOTICE:	CONTROLLED SUBSTANCE COMMITTEE
DATE AND TIME:	Wednesday, May 26 at 10:00 a.m.
PLACE:	Buena Vista, Dining Room, 661 S. DuPont Highway, New Castle, Delaware 19720
APPROVED:	

MEMBERS PRESENT

Michael Kremer, DMD, Dental Representative, President
Philip Kim, M.D., Medical Representative
Ann Dominick, APN, Nursing Representative
Howard Simon, R.Ph, Pharmacy Representative
Bonnie Wallner, R.Ph., Pharmacy Representative
Robert Flanagan, DVM, Vet Representative
Stephen Ruggles, PA-C, PA Representative
Mark Hanna, Public Representative
David W. Dryden, R.Ph., J.D., Director Office of Controlled Substances

MEMBERS ABSENT

Luis Garcia, Jr., DPM, Podiatric Representative, Vice President

DIVISION STAFF/DEPUTY ATTORNEY GENERAL

Patricia Davis-Oliva, Deputy Attorney General
James Kaminski, R.Ph., Pharmacist Administrator
Judy Letterman, Administrative Specialist

ALSO PRESENT

Sheila Grant
Sudha Katpad
Simmi Thomas
Steve Petty
Caryn Tazartus
Deanna Flaherty
Donette Spears
Anthony Kemmerlin
Simmi Thomas
Sudhindra Kapbadi
Bruce DiVincenzo
Bill Waggaman

CALL TO ORDER

Dr. Kremer called the meeting to order at 10:08 a.m.

REVIEW AND APPROVAL OF MINUTES

A motion was made by Dr. Kremer, seconded by Ms. Dominick, to accept the minutes as presented. The motion was unanimously carried.

PRESIDENT'S REPORT

None

UNFINISHED BUSINESS

None

NEW BUSINESS

Registrant Application Reviews

Guilford R. Hurst

The Committee discussed the application of Guilford R. Hurst. Mr. Dryden read the statement provided by David Mangler, Executive director for the Board of Nursing.

A motion was made by Ms. Dominick, seconded by Mr. Garcia to approve the registration. The motion was unanimously carried.

Disciplinary Hearing- William Pollock, M.D.

The hearing was called to order at 10:45 a.m.

Ms. Davis-Oliva stated that today's hearing was in regards to William Pollock for alleged violations of the Uniformed Controlled Substance Act and the Administrative Procedure Act 8735 Title 29.

Dr. Pollock, between January 2009 and August 2009, allegedly prescribed Oxycodone for his wife violating 3.1 and 4.3 of the Uniform Controlled Substance Act, 16 Del C. §4734 (a) (7) and the State recommends suspension or revocation of his controlled substance registration.

The Committee members were introduced.

Dr. Pollock was not in attendance.

Ms. Gadbois gave an opening statement alleging that Dr. Pollock has abused and misused his Controlled Substance Registration, presented into evidence State Exhibit 1, and presented her first witness, David Dryden.

Mr. Dryden was sworn in and gave testimony that Dr. Pollock was notified of today's hearing by certified mail and by phone. A response to the notices was not received.

Witness, Simmi Thomas, was sworn in. Ms. Thomas, a Delaware licensed pharmacist employed by K-Mart, gave testimony regarding the types, the number of prescriptions and form of payment received from Dr. Pollock during that eight month period.

Witness, Sudhindra Kapbadi, Delaware license Pharmacist employed by Wal-Mart, gave testimony regarding the types, the number of prescriptions and form of payment received from Dr. Pollock during that eight month period..

Ms. Gadbois asked Mr. Kapbadi to review Mr. Waggaman's summary, which showed that Dr. Pollock received 600 tablets of Oxycodone in a 30-day period, and that between January 2009 and August 2009 he received two types of controlled substances in 68 prescriptions for Ms. Pollock, using 12 different pharmacies. Mr. Kapbadi also stated that the two types of controlled substances are similar and should not be taken together. He also stated that he researched the store's database and when he discovered that Dr. Pollock had used other Wal-Mart pharmacies for additional prescriptions, he informed Dr. Pollock that he would not fill the prescription since it would be unethical.

Witness, Bill Waggaman, Office of Narcotics and Dangerous Drugs, was sworn in, gave testimony and answered questions concerning the complaint filed with ONDD and the investigation of Dr. Pollock including the developed ledger of dispensed controlled substances prescribed and dispensed to Mrs. Pollock.

Witness, Bruce DiVincenzo, Office of Narcotics and Dangerous Drugs, was sworn in, answered questions and stated that after the investigation by ONDD, he filed a complaint with the Division of Professional Regulation, which is the controlled substance licensing agency.

Witness, Anthony Kimmerlin, Investigator Division of Professional Regulation, was sworn in, gave testimony and answered questions concerning his investigation and interview of Dr. and Mrs. Pollock. He stated that Dr. Pollock, whose office in Delaware and his wife is the office manager, was a general surgeon licensed by the State. However, he was unable to determine if Dr. Pollock had practice privileges. Mr. Kimmerlin testified that records were not available for Mrs. Pollock pertaining to drugs prescribed or diagnosis.

Mr. Flangan left at 12:15 p.m.

Ms. Gadbois stated, in her closing, that Dr. Pollock chose not to come to today's hearing, admits prescribing controlled substances for his wife, he has prescribed 4098 tablets, his office has not records of controlled substances prescriptions for his wife and he is still writing prescriptions and the State recommends that his controlled substance license be revoked.

The Committee went off the record and into deliberations.

The Committee went back on the record.

A motion was made by Mr. Dominic, seconded by Ms. Wallner, to revoke the Controlled Substance Registration of Dr. William Pollock. The motion was unanimously carried.

The hearing concluded at 1:15 p.m.

Disciplinary Hearing-Jeffrey K. Kerner, D.O.

This hearing was cancelled and will be rescheduled.

Consent Order Review-James Berlin

A consent order was presented to the committee. A motion was made by Mr. Simon, seconded by Mr. Garcia, to accept the Consent Order as written. The motion was unanimously carried.

DIRECTORS REPORT

Mr. Dryden reported that there had been a great deal of activity concerning controlled substances in the General Assembly pertaining to the Prescription Monitoring Program and the Attorney General's Bill on Title 16.

Mr. Dryden stated that there was a State-wide drug disposal on May 14, 2010. There was a disposal in all three counties with the DEA attending the Kent County function and OCS staff at the Sussex and New Castle County sites. Although the function was a success there were concerns of staffing by both DEA and OCS. Future meetings will be held at one site to better control the disposal and return of controlled substances.

Ms. Davis-Oliva, Mr. Kaminski and Mr. Dryden had met to review and edit the current controlled substance regulatory issues addressed at the past Controlled Substance Regulatory Committee meeting. Ms. Davis-Oliva will be providing a cut and paste version at the next Committee meeting.

Mr. Dryden reviewed the present controlled substance regulation pertaining to identification. After review it was determined that only a non-resident practitioner prescribed controlled substance prescription required an identification check at the drop off of the prescription. All identifications should be checked at the time of the pick up of a controlled substance prescription.

COMMITTEE REPORTS

Medical Examiner's Report

The Medical Examiner's office presented a hand out of staff activities.

DEA Report – Donetta Spears:

Ms. Donetta Spears reported that the DEA is setting up a disposal event for September which will be a coordinated effort across the country to dispose of controlled substances.

Substance Abuse Report

No report.

Law Enforcement Report

Chief Agent DiVincenzo reported that their office has been very active in investigating controlled substance diversion.

Regulatory Committee

Mr. Dryden reported that a Regulatory Committee meeting had been held on April 15, 2010. The Committee discussed regulatory issues including but not limited to Inventory Accountability CS Regulation 3.1.4, Verbal Prescriptions CS Regulation 4.2.2, Electronic Prescriptions CS

Regulation 4.2.3, Electronic Signatures CS Regulation 4.4, 7 Day Prescription Validity CS Regulation 4.8.1, Identification CS Regulation 4.10.2 and Security CS Regulation 5.1.

The Sub-Committee agreed to have Ms. Davis-Oliva, Mr. Kaminski and Mr. Dryden draft language to address clarification of moving controlled substances in particular pharmacy transport situations (3.1.4); practitioner approval language for verbal prescriptions (4.2.2); to include electronic transmission (4.2.3/4.4) ;and security (specific inclusion of present requirements will be added. i.e. – floor to ceiling security, camera surveillance, back-up coverage)(5.1.1.4).

The 7-day language of 4.8.1 will be amended to “such prescriptions may be dispensed up to a 100 dosage units or a 31-day supply whatever is greater”. This language will address any confusion with limitation language.

Legislative Committee

Mr. Dryden reported that a Legislative Committee meeting had been held on April 15, 2010. The Committee discussed the proposed bills for the prescription monitoring program, drug disposal, tamper proof prescription pad and Title 16 package. The Committee needed to review the PMP Bill further before providing their support. The Committee supported the disposal Bill.

INSPECTION REPORT

Mr. Dryden reported that inspections were limited to openings, remodels, and pressing inspections due to limited staffing resources.

COMMITTEE CORRESPONDENCE

None

OTHER BUSINESS BEFORE THE BOARD

None

PUBLIC COMMENT

None

NEXT SCHEDULED MEETING

The next meeting will be held on Wednesday, August 25, 2010 at 10:00 a.m.

Adjournment

A motion was made by Ms. Dominick, seconded by Mr. Hanna, to adjourn the meeting. The motion unanimously carried. The meeting adjourned at 1:25 p.m.

Respectfully submitted,

David W. Dryden, R.Ph., Esq.